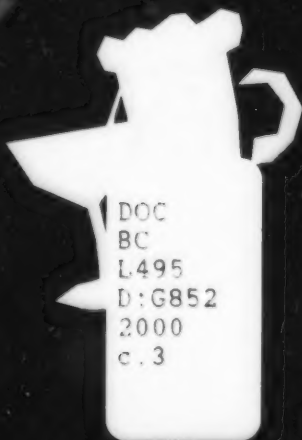


A Guide

For Liquor
Manufacturers and Their
Representatives
in British Columbia



Ministry of Attorney General
Liquor Control and Licensing Branch

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Introduction

Your British Columbia liquor manufacturer's or agent's licence is a valuable asset. It allows you to produce, market and sell your liquor products to liquor establishments throughout the Province. Each time a licence is issued to a liquor manufacturer or agent, that person must assume the legal responsibilities and obligations associated with the licence.

How important your licence is to you is reflected in your willingness to voluntarily comply with those responsibilities and obligations. Any departure from your legal obligations could result in the suspension or loss of your licence, and that could have significant financial implications for you.

The responsibility of the Liquor Control and Licensing Branch (LCLB) is to ensure that all manufacturers and agents comply with the *Liquor Control and Licensing Act and Regulations*, and with the terms and conditions of their licence. The LCLB liquor

inspectors and personnel, in cooperation with Liquor Distribution Branch (LDB) auditors, local police forces, the industry and the community, monitor the activities of manufacturers and their agents to ensure they are operating properly. The roles of these officials and the process of reporting infractions are explained in Section B of this publication.

Section C and D outline actions that the LCLB may take when a manufacturer or agent fails to comply with these guidelines, and with the terms and conditions of their licence. The liquor appeal process is briefly discussed in Section E.

It is the responsibility of every manufacturer or agent to understand how the liquor legislation, and the terms and

conditions of their licence, affect their business operations. Your manufacturer's or agent's licence affects more than the production and sale of liquor. It determines how and in what circumstances you may provide samples of your product, the content and method of your advertising, the nature of the promotional material used by your company, and more.

To assist you in understanding the impact of the *Act* and *Regulations* on your operations, Section F of this publication contains the terms and conditions imposed on all liquor manufacturers and their agents. The authority for these terms and conditions are sections 12(2) and 54 of the *Liquor Control and Licensing Act*. A thorough knowledge of these terms and conditions will help you to conduct your business in a manner that is both responsible and trouble-free.

If any provisions of the liquor legislation, the terms and conditions of your licence, or liquor policy are unclear to you, or if you are considering any activity not discussed in this publication, you should contact the LCLB.

The Impact of Liquor Control and Licensing Legislation on Manufacturers and Representatives

There are three primary purposes of liquor control and licensing legislation:

1. To permit legitimate promotional activity including sponsorships, product sampling, distribution of brand or corporate identified sales aids, and other approved activities;
2. To prohibit the offering of inducements to licensees. Inducements are incentives given by manufacturers or their representatives to licensees in free product, rebates, cash or other considerations, in order to establish exclusivity of product sales or to increase a product's sales;
3. To prevent manufacturers from marketing to minors.

Liquor Control and Licensing Branch — Enforcement Program

The role of the LCLB enforcement program is to help provide an orderly, problem-free environment for licensed establishments and manufacturers of alcoholic beverages in British Columbia. Central to this objective is the minimization of the public health and safety risks associated with the service and consumption of alcohol. Although penalties are imposed on those who break the law, the goal of the LCLB is to minimize infractions through education and voluntary compliance.

Key components of the enforcement program include:

1. **Enforcement Policies and Procedures** which are clearly defined to ensure consistency in decision-making;
2. **Information Services** provided to industry associations and law enforcement agencies regarding liquor laws, infraction penalties, new policies and trends in liquor law enforcement;
3. **Liquor Inspectors as Educators** to inform manufacturers, agents and licensees about the liquor laws of the Province with the intention of preventing infractions;
4. **Premise Inspection Program** to ensure that all licensed establishments are regularly inspected, and that problem establishments are carefully monitored;
5. **Enforcement Hearings** conducted as necessary to provide timely, appropriate action, and fair and consistent penalties;
6. **Enforcement Liaison Program** to enable the LCLB to effectively administer liquor laws with the aid of police and law enforcement agencies in British Columbia.

Monitoring Manufacturer Activities - A Group Effort

The Liquor Control and Licensing Branch (LCLB) works together with liquor inspectors, police officers, industry associations, and the general public to monitor the activities of manufacturers and their representatives. This, in turn, helps your company to operate within the liquor legislation. The monitoring process is explained below.

Complaints

Complaints concerning a manufacturer or representative may come from a member of the public, a licensed establishment, a competitor, the local government or any other agency that believes your company or your representative may be breaking the law.

Every complaint is investigated by a liquor inspector or other LCLB personnel. The inspector may visit your facility to discuss the complaint and inspect the premises. Any problems could be resolved at that time, or it may be necessary to take further enforcement action. The course of action pursued will depend upon the nature of the complaint, previous record, and whether your business is already the subject of enforcement proceedings.

Complaints from local governments and other regulatory authorities are investigated by the LCLB in cooperation with officials of the originating agency. When an investigation is completed, a report is filed and action taken as required.

Audits

The Liquor Distribution Branch (LDB) conducts both scheduled and random audits of manufacturers and their representatives to ensure compliance with the laws, policies and procedures. These audits are conducted throughout the year, sometimes without notification. When an LDB officer

visits, access must be granted to your business including all accounting records. Should an irregularity be discovered, a report is submitted to the LCLB for review. These audits are an important part of the LCLB's supervision of manufacturer activities.

Monitoring

The LCLB continually monitors the activities of liquor manufacturers and their representatives.

Enforcement Action By the Liquor Control and Licensing Branch

The enforcement program is based upon the premise that enforcement action will be taken promptly, and that voluntary compliance by the licensed manufacturer or representative is the preferred solution. Where appropriate, therefore, minor problems may be informally resolved between the manufacturer or representative and Liquor Control and Licensing Branch (LCLB) staff.

Enforcement action taken by the LCLB forms part of your record. It is important, therefore, that you clearly understand any action that is taken against you. If any aspects of a discussion or a letter are unclear, you should seek clarification from the LCLB officer involved.

You should not expect that each manufacturer or representative is entitled to a warning or an enforcement meeting for a first infraction. Warnings are only intended as a response to isolated infractions of a relatively minor nature. A warning may be combined with an enforcement hearing to help you operate within the rules. Serious matters will normally be dealt with by way of a hearing and may result in a significant penalty or the cancellation of your licence. While progressive punishment is normally the case, the number of infractions or the seriousness of it (or them) may warrant a departure from that approach.

There are four types of enforcement action that the LCLB could pursue:

1. Warning Letters

Where a minor infraction occurs, a warning letter may be issued to you and your representative.

Whether a warning letter would be an appropriate course of action, however, must be assessed in the light of any previous infractions or repeated offences of the same nature.

Such a letter simply warns you that what has occurred is unlawful, and that the problem must be corrected immediately or further action will be required. If you receive a warning letter, treat it seriously and take any corrective action necessary to prevent future problems.

2. Enforcement Meetings

An enforcement meeting may be convened when a warning letter is not appropriate. The infraction will be addressed and ways developed to prevent the continuation or repetition of the problem. A primary objective of these meetings is to educate the manufacturer or representative concerning the prevention of future infractions.

3. Enforcement Hearings

When warning letters and enforcement meetings are not considered to be appropriate solutions to a particular problem, an enforcement hearing may be scheduled. Enforcement hearings are proceedings conducted by the LCLB under the legal authority of the *Liquor Control and Licensing Act*.



In cases where a hearing is required, you are notified in writing and asked to attend. The style of hearing is informal. You may be accompanied by any person you feel may be helpful in presenting your case, including legal counsel. The hearing is open to the public unless otherwise determined by the presiding adjudicator.

Typically a hearing will commence with the reading of the infraction report. You will usually have a copy of this report, or at least full particulars of the substance of the report. You are given full opportunity to put forward your version of the circumstances. Questions and discussion are encouraged.

Once all relevant information has been presented, the person presiding will determine whether a breach of the Act has occurred. A written decision will always be provided, even in cases where a decision has been rendered orally at the hearing. Copies will be forwarded to appropriate agencies, including the Liquor Distribution Branch (LDB). Hearing results are a matter of public record.

Action may also be taken without a hearing. Generally the LCLB prefers to employ the hearing process, but situations do arise where it is necessary to take immediate action with respect to a manufacturer's or representative's activity.

Once it has been determined that an infraction has occurred, it is the LCLB's philosophy that the action taken should be sufficient to protect the public interest and bring home the seriousness of the infraction to the manufacturer and employees. Factors that may be considered in any penalty against a manufacturer or representative are:

- the previous record of the manufacturer or representative
- the nature of the infraction
- the effect of any proposed disciplinary action on the licensee and on the community at large
- the extent to which the manufacturer or representative has been cooperating with the LCLB
- whether the particular situation is part of a larger social problem in that particular area;
- whether there have been any recent changes in ownership
- whether the manufacturer/representative is taking definite steps to improve operations
- other decisions in similar situations against other manufacturers/representatives.

To assist you in operating within the law, the LCLB attempts to resolve as many problems as possible through education. When penalties are required, these may vary from cancellation or suspension of all licence privileges to suspension of advertising, sales, sampling or listing privileges.

As any suspension will likely have a significant impact

on the financial viability of your operation, it is important to remember the potential consequences of any illegal activity.

4. Referral to Industry Associations

Where an association has formal membership and the authority to cause a change in a manufacturer's or representative's behaviour, the LCLB may allow that association to discipline their member before any formal action is taken by the LCLB. Most industry associations operate under a strict code of conduct that conforms to the liquor legislation requirements in British Columbia. However, these associations do not exist to replace the enforcement responsibilities of the LCLB.

Prosecution Through the Courts

In addition to Branch administrative enforcement, a prosecution by Crown Counsel for breaching the Act may also be taken against your company under the general offence provisions of the Act.

Section 48 of the Act stipulates penalties for offences under the Act. If convicted, a corporation may be fined up to \$100,000. Penalties for a person can be fines as high as \$50,000 or six months in jail, or both.

E Appeals

As a licensed manufacturer or representative affected by a Branch enforcement decision, you may have grounds for an appeal. Appeals are conducted pursuant to section 31 of the Liquor Control and Licensing Act, and are heard by the Liquor Appeal Board:

Liquor Appeal Board
910-1125 Howe Street,
Vancouver, British Columbia
V6Z 2K8

phone: (604) 660-2987

fax: (604) 660-3372

Once the Liquor Control and Licensing Branch (LCLB) has made a decision, you have 30 days from the date of the decision to submit, by registered mail, a written notice of appeal to the Liquor Appeal Board with a copy sent to the General Manager of the LCLB. You may also file your appeal by personal service, courier or facsimile, but if one of these methods is used, notice must actually be received by the Liquor Appeal Board within the 30 day limit.

The Liquor Appeal Board "Rules, Practices and Procedures," describing the form of notice of appeal and the appeal process, may be obtained directly from the Board.

Getting It Right the First Time:

Terms and Conditions

The following pages contain terms and conditions which are imposed under sections 12(2) and 54 of the *Liquor Control and Licensing Act*, on all liquor manufacturers and their agents in British Columbia. A thorough understanding of these terms and conditions will assist your company and your agents and representatives to conduct business in a manner that is both responsible and trouble-free. We want to help you "get it right the first time" — if you are uncertain about any of the following points, don't hesitate to contact LCLB staff or your local LCLB Liquor Inspector (see province-wide contact information for Liquor Inspectors on page 41).

1 Licensing

If you are a liquor manufacturer or representative of a manufacturer, or importer you must be licensed by the Liquor Control and Licensing Branch (LCLB) and your licence must be renewed annually. Application forms are available from the LCLB. When agents leave a manufacturer's company, it is the responsibility of the manufacturer to ensure that the agent's licence is returned to the LCLB.

2 Minors

It is against the law to sell, serve, or supply liquor to a minor. If you or your representative sells, serves or supplies liquor to a minor, you are liable for a fine of not less than \$500. Any infraction of this type clearly jeopardizes your licensing privileges.

You must also ensure that your products are not directed to minors through promotional activities or point-of-purchase material.

3

Inducements

Section 45 of the Liquor Control and Licensing Act states:

- (1) A person shall not offer or give or agree to give and a licensee or his employee shall not demand, accept or receive or agree to accept or receive money, gifts, reward

or remuneration, directly or indirectly, for promoting, inducing or furthering the sale of a particular kind, class or brand of liquor.

(2) A licensee or his employee shall not induce, further or promote the sale of a particular kind, class or brand of liquor.

(3) Subsection (2) does not apply in respect of liquor sold at a brew pub, winery, distillery, brewery, or establishment referred to in section 18(2.1) that is operated

in accordance with the regulations.

- (4) Subject to the regulations, the General Manager may exempt a person from prohibitions and restrictions under subsection (1) and (2) in respect of an establishment, and may impose terms and conditions for the exemption.

The intent of this legislation is to prevent liquor manufacturers and their representatives from offering inducements to licensees in order to encourage licensees to promote a particular kind or brand of liquor; and to prevent licensees from demanding or accepting such inducements. Purchasing decisions by licensees should be made only on the basis of quality, price, and consumer demand.

Exemptions

If you are a brew pub or an establishment located at a winery, then you are exempted from the requirements of section



45(2). Thus, you may promote liquor or wine products in your pub or winery lounge, which you manufacture at your brewery or winery. Subject to the regulations, and subject to the approval of the General Manager, section 45(4) of the Act exempts larger capacity sports stadiums and concert halls from the requirements of sections 45(1) and (2).

Supplying Items, Products, or Services

With the exception of the facilities exempted above, you are prohibited from influencing purchasing patterns by supplying any item, product or service to a licensee, be it money, fixtures, furnishings, product, repair and maintenance costs, draught lines, rental of unoccupied rooms or any other product or service. Likewise, licensees are prohibited from requesting or receiving, directly or indirectly, the same. This includes the purchasing of advertising for the purpose of inducing product sales. Such activity would place both your licence and that of the licensee at risk.

You may, however, provide a licensee with information and ideas that will enable the licensee to improve both premises and operating methods. This information must be directly supplied by you, not through an outside consultant. You may not offer advice in the area of lending or locating financing.

4 Introduction of Liquor Products

Manufacturers may occasionally give a sample product to licensees and other individuals. This practice must be approached with discretion, common sense and good taste. Sampling in public places or the promotion of sampling parties at which free product is furnished to anyone wishing to participate, is prohibited.

Samples to Licensees

To introduce a product, you or your representative may give the licensee samples of product, but the amount you provide must not be more than one standard size bottle in one year—that is:

- in the case of distilled spirits, the smallest available size per product (750 ml or greater) listed by the Liquor Distribution Branch (LDB);
- in the case of wine, the smallest available size per product (not exceeding two litres) listed by the LDB;
- one dozen 341 ml bottles or one dozen 355 ml cans of beer, domestic cider or coolers.

This product must be consumed by the licensee only. It is not intended for the patrons of the establishment and must not be purchased or consumed by them.

Recording Samples

All liquor coming into a liquor representative's possession and the manner of its disposal, must be recorded in a company internal expense account. The account should detail all liquor supplied as a sample, including the person and establishment to whom the product was supplied, the amount of product supplied and the date of supply.

These records must be available for inspection by the LCLB and the LDB. Failure to maintain this record in its complete form for a minimum period of two years may jeopardize licensing privileges.

5ifting

Liquor manufacturers are periodically requested to donate products to non-profit organizations. You may choose instead to donate money rather than product on the condition that the organization purchases their product with that money. In either case, you must retain for audit purposes, information that includes: the name of the intended recipient organization; the location, date and purpose of the function; the number of people attending the function; the quantity of product or money involved; and receipts from the LDB for any donated product.

6 Visiting a Licensed Establishment

As a manufacturer or representative of a manufacturer, you are not allowed to mass treat or buy "drinks for the house." It is permissible, however, for you to join customers at a table in the licensed establishment, and buy a drink for each customer at that table. The purpose of this activity is to allow you to introduce a particular product to the patrons. When you visit an establishment and want to purchase drinks for the patrons of that establishment, the following conditions must be met:

- a) Each serving to each customer may not be greater than the normal serving in that particular licensed establishment.
- b) Each order is paid for as it is served. The order may be put on a "tab" provided the account is settled before you leave the establishment.
- c) You do not treat more than one table at a time.
- d) You conform to the rules and regulations of the establishment if it is a private club or military mess, and those rules don't involve a breach of the Act.



- f) In licensed restaurants, the patrons must first order a meal before sampling products.
- g) You retain a copy of a countersigned receipt for the dollar value of sampled product for audit purposes.
- h) Brew pub operators who are registered agents, may provide samples to their customers in the brew pub provided the samples are purchased from the brew pub and all taxes are paid.

You are not permitted to conduct this promotional activity anywhere on a university or college campus, either in on-campus licensed facilities or in an unlicensed area.

This type of promotional activity is also prohibited at wineries; patrons of wineries should be directed to the winery's tasting room if they wish to sample particular products.

Food and Liquor Promotions in Licensed Establishments

To promote your products to consumers you may enter into a joint promotion with a licensed establishment to feature your products during a special event. Such events typically take the form of a winemaker's dinner or similar such promotion and is permissible in all classes of licensed establishments for any type of liquor.

The event must include a full meal involving at least three courses and all attending the event must partake of the meal. The price for the liquor being served should normally be part of a package price that includes the meal.

The event may be advertised outside the establishment by both you and the licensee provided that the owner or a senior representative of your company is present at the event to describe the product being served. A sales representative is normally not considered to be a senior representative of the manufacturer.

All liquor served in this type of promotion must be purchased by the licensee through the normal Licensee/Agency Order Form (Documentation 60) process.

Your company may not have more than four such events in any one licensed establishment per year.

8 Manufacturer Promotional Material

You may sell, or provide at no cost, a variety of promotional items of nominal value to licensees to advertise your product in that establishment. These items include sales aids and general promotional items such as coasters, clocks, signs, posters and tent cards. When you consider promotional activities, remember the following:

- a) You may not deliver or permit to be delivered any brand or corporately identified items to anyone under the age of 19 years.
- b) You may not deliver or permit to be delivered any brand or corporately identified items to any employee of either the LDB or the LCLB.
- c) You may not mail or distribute any information directly to government liquor stores without the express approval of the LDB. For more information, please call the Director of Store Operations in Vancouver.
- d) Apart from patio umbrellas which may be brand or corporately identified, licensed establishments are not permitted to display any promotional material that includes brand or corporately identified signs in such a manner that the primary intent is to have it viewed from outside the licensed area (e.g., a sign in a window). The only exceptions are winery lounges or brew pubs located at a liquor manufacturing facility. These establishments may display the promotional material of the winery or brewery at which their establishment is located.
- e) Unless you are a manufacturer supplying items to your own winery lounge or brew pub, or an establishment granted an exemption under section 45(4) of the Act, you are not permitted to provide - and licensees may not accept - any items that are necessary to the operation of a licensed establishment, for example, glassware, draught lines, etc.
- f) With the exception of the following, licensed establishment owners, managers and employees may not wear manufacturer-identified items such as clothing and hats while working within the establishment except

during an approved manufacturer theme night. (See point 10):

- brew pubs or winery lounges;
 - managers and employees who may wear apparel identifying the liquor manufacturing facility at which their establishment is located; or
 - establishments granted an exemption under section 45(4) of the Act.
- g) With the exception of brew pubs or winery lounges - who may use glassware identifying their own manufacturing facility - or establishments granted an exemption under section 45(4) of the Act, licensees may not use glassware that is brand or manufacturer identified.

Licensee Retail Stores (LRS) are permitted to sell items such as shirts and hats provided by a manufacturer. Licensees must be invoiced and pay a fair market value for the items however, and the items must not be jointly branded with both the name of the licensed establishment and the liquor manufacturer. If these items are purchased by employees of a licensed establishment they should be made aware that they cannot wear them while working in the licensed establishment.

9 Manufacturer Sponsored Events

You are permitted to sponsor a wide array of events, activities, and organizations, most commonly those of a cultural or sporting nature. The following terms and conditions apply to sponsorships.

Notifying the LCLB

LCLB pre-approval for a sponsorship is not required, but the LCLB must be notified of a sponsorship if:

- a) the cost of the sponsorship is in excess of \$1,500, or
- b) the event, activity, or organization involves a licensed establishment.

Recreational facilities such as ski hills often hold liquor

licenses and fall into the second category regardless of the dollar value of the sponsorship.

The notification should:

- describe the nature of the sponsorship,
- where and when the event or activity is to occur and, if it is associated with a licensed establishment, the name of the licensee.

Send notification of the sponsorship to the Industry Compliance Officer at the LCLB. The Industry Compliance Officer should receive this notification at least 14 days before the event or activity is to occur.

Notification for sponsorships of major events, such as national or international sporting events, should be received by the Industry Compliance Officer one month prior to the event as there may be issues that require discussion with LCLB staff.

Records of all sponsorships, including the terms of any agreements you enter into, must be retained for audit and inspection purposes for a period of two years.

Minors

You may not sponsor or participate in events, activities or organizations that primarily involve minors as either participants or audience, or predominantly appeal to minors. This includes junior or minor sports.

Notwithstanding the above, major events of a national or international nature where a majority of the participants are under the age of 19 years and which do not predominantly appeal to minors, may be considered eligible for sponsorship at the discretion of the General Manager of the LCLB.

Advertising, Signage and Responsible Use Messaging

Both brand and corporate signage may be placed at the sponsorship site without LCLB pre-approval.

If brand and/or corporate signage is displayed at the sponsorship site and liquor is being served within the premise or elsewhere on-site, you must also display responsible use signage on-site. The placement of responsible use signage is

based on a formula of one responsible use sign for every three brand or corporate signs. If less than three brand or corporate signs are placed, one responsible use sign must still be displayed. The responsible use signs must be, at a minimum, of the same size, visibility, and prominence of place as the brand or corporate signage, and be well in view of both on-site and television audiences.

Advertising of the sponsorship or signage must conform to the Act, regulations, and the CRTC Code for Broadcast Advertising of Alcoholic Beverages, and is permitted in any media subject to the regulations and these guidelines (see point 16 - Manufacturer's Advertising).

If the sponsored site is one in which liquor advertising is permitted only during a sponsorship, the signage may be in place during the event only and for a maximum period of three days both before and after the event, to permit the placement and removal of the signs.

Universities and Colleges

Sponsorship of a university or college-related event or activity, either on or off-campus, is permitted with the prior written approval of the President of the university or college or of the institution's central administration.

Sponsorship of events related to other types of educational institutions is also permitted, as long as the students of the institution are primarily over the age of 19.

Liquor Service

If liquor service is offered on-site at the sponsored event or activity or for an organization, exclusivity for the sponsoring manufacturer's products is not permitted

Association with Licensed Establishments

Generally, a manufacturer sponsorship may not be associated with a licensee, nor may you sponsor an activity or event occurring in a licensed establishment. However, exceptions to this policy may be permitted if the sponsorship meets the following criteria:

- the event or activity occurs within a sports stadium, recreational centre (e.g. ski hills, racquet clubs, and bowling alleys), concert hall, university or cultural centre; and
- it is for a time-limited event or activity and is not an ongoing relationship with a licensee.

Please note that these restrictions do not apply to winery lounges or brewpubs, or establishments granted an exemption under section 45(4) of the Act, which may be associated with events and activities held at the winery or brewery at which the establishment is located.

Sponsorships meeting the above criteria may advertise the name of the licensed establishment where the sponsored event or activity is to take place.

Prizes

Liquor may not be provided as a prize to participants of a sponsored event or activity.

10 Manufacturer's Theme Nights

A theme night is a joint activity held by a manufacturer and a licensee for the purpose of promoting the sale of a particular brand of liquor or wine product, and may include festive activities meant to promote that product. Only "A", "C", "D", "F" or "I" licensees are permitted to host a theme night.

Pre-approval

Pre-approval of a theme night, or theme night point-of-sale materials and prizes, by the LCLB is not required. However, you must provide pre-notification to the LCLB Industry Compliance Officer at least ten days in advance of the theme night. In your pre-notification you must include information about:

- the date, time and location;
- the name of your representative(s) attending.



Conditions of Sponsoring a Theme Night

You and your representatives must comply with the following conditions when sponsoring a theme night:

- a) You or a representative must be present during at least part of each function, and must be present to award all theme night prizes. You may employ other persons to assist with your promotion.
- b) You must provide an educational component to the theme night promotion. Some examples are:
 - material promoting awareness of provincial liquor laws and policies, the consequences of alcohol abuse, or awareness of the consequences of drinking and driving;
 - promotion of industry or corporate sponsored publications or programs regarding responsibility in beverage consumption.

- c) Theme promotions shall not be conducted between the hours of 4:00 p.m. and 6:30 p.m. to avoid a "Happy Hour" type event. Afternoon promotions must end at 4:00 p.m., and evening promotions may not commence until 6:30 p.m.
- d) You may not conduct more than eight days of promotions during any 90-day period in any one establishment.
- e) The promotion may not occur on a college or university campus.
- f) You may not bring any liquor into an establishment. Any liquor provided to patrons must be purchased from the licensed establishment participating in the theme night.
- g) You may not give liquor away free, but the licensee may establish reasonable "special" prices for manufacturer promotions.
- h) Notwithstanding (g), you may dispense samples to patrons at no cost from a separate service counter or bar that has been set up for that purpose at the licensee's discretion. Samples may be served using plastic glassware. Maximum samples allowed per consumer for each sample:

	Single Product	Multiple Product
Wines	30 ml.	45 ml.
Beer/Cider/Cooler	30 ml.	45 ml.
Spirits	10 ml.	20 ml.

- i) You may not exceed 15% in gratuities or tipping.
- j) The promotion may not be advertised outside the licensed premise.
- k) You may run contests and present prizes as follows:
 - prizes may be brand or corporately identified;
 - prizes must be simple in nature, e.g. hats, t-shirts, key chains, or product related items such as corkscrews, glasses, etc., and may not exceed \$25.00 per prize;
 - beverage alcohol may not be given as a prize;
 - trips, accommodation, or anything that may not be

taken or carried from the establishment may not be given as a prize;

- l) Licensee employees may wear brand or corporately identified items only during a theme night promotion - they may not be worn in the licensed establishment under any other circumstances.
- m) The quantities for multiple product tasting apply only where more than one product is being presented at any one time by a single manufacturer. For example, where three varieties of wine are presented to a patron, you may offer a maximum of 15 ml. of each wine to taste.
- n) The licensee may not charge you a fee (other than the price of the liquor) for conducting a theme night.
- o) The licensee must issue you a countersigned receipt for the dollar value of sampled product. Both parties should retain a copy for audit purposes.

77 Consumer Tastings in "B" Licensed Restaurants

To promote your products to consumers, you may offer tastings in "B" licensed establishments under the following conditions:

- a) You or your representative must be present during the entire period of the consumer tasting.
- b) Prior to conducting the event, you must provide the LCLB Industry Compliance Officer with pre-notification of the event. Your pre-notification must include:
 - the location, date, and time of the event,
 - the name of the representative attending the event.
- c) All liquor products used in the tasting must be purchased from the licensed restaurant.
- d) All patrons must order a meal before tasting.
- e) Minors are not to participate in consumer tastings.
- f) Maximum quantities allowed to each consumer for each tasting sessions are:

	Single Product	Multiple Product
Wines	30 ml.	45 ml.
Beer/Cider/Cooler	30 ml.	45 ml.
Spirits	10 ml.	20 ml.

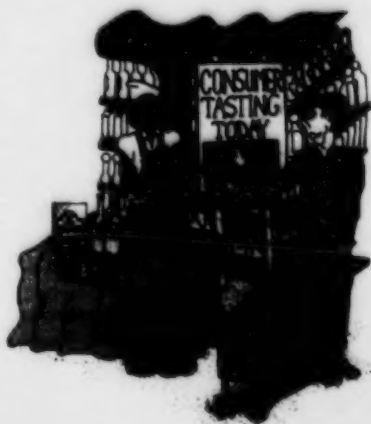
- g) The quantities for multiple product tasting apply only where more than one product is being presented at any one time by a single manufacturer. For example, where three varieties of wine are presented to each patron, you may each offer a maximum quantity of 15 ml. of each wine to taste.
- h) Product must be dispensed by the licensee or licensee staff.
- i) Upon completion of a consumer tasting, opened bottles that have not been emptied are to be destroyed with the exception of spirits which may be returned to stock.
- j) Consumer tasting programs shall not be advertised outside the restaurant by you or by the licensee.
- k) You must not leave open containers of beverage alcohol unattended at any time.
- l) The licensee must issue you a countersigned receipt for the dollar value of sampled product. Both parties should retain a copy for audit purposes.

12

Consumer Tastings in Licensee Retail Stores

A Licensee Retail Store (LRS) may arrange for a liquor manufacturer to conduct tastings of products available for sale in their LRS. The time and length of a consumer tasting is left to the discretion of you and the LRS licensee, with the understanding that all tastings will end 30 minutes before the closing time of the store, and on the condition that only one consumer tasting will be conducted in a single store at any one time.

The following conditions apply to consumer tastings in LRS's:



- a) Maximum quantities allowed per consumer for each tasting session are:

	Single Product	Multiple Product
Wines	20 ml.	30 ml.
Beer/Cider/Cooler	30 ml.	45 ml.

- b) The quantities for multiple product tasting apply only where more than one product is being presented at any one time by a single manufacturer. For example, where three varieties of wine are presented to each patron, you may offer a maximum quantity of 10 ml. of each wine to taste.
- c) Licensees may not charge a rental fee for demonstration space.
- d) You may hire personnel to conduct a consumer taste demonstration, but they must be either licensed agents of the firm or servers who are familiar with the rules governing this tasting program.
- e) All liquor product sampled must be purchased by you from the licensee retail store at no more than their retail price. Donation of products for tasting is not permitted.
- f) Upon completion of a tasting demonstration, opened bottles that have not been emptied are not to be removed from the store. The product must be destroyed. Unopened product must be returned to the LRS store inventory and you must receive a refund from the licensee at the price paid for the product.
- g) You must supply all point-of-purchase show material used to support the consumer taste program.
- h) Neither you nor the LRS licensee is allowed to advertise consumer tasting programs outside the store. Point-of-purchase show material is the only advertising permitted within the LRS.
- i) You must not leave open containers of beverage alcohol unattended at any time.
- j) Minors are not to participate in consumer tastings.
- k) The licensee must issue you a countersigned receipt for the dollar value of sampled product. Both parties should retain a copy for audit purposes.

13

Manufacturer-Sponsored Contests

Liquor manufacturers and their agents may hold contests. Contests are permitted in government liquor stores, licensee retail stores (LRS), and through the media.

If a contest is planned for a government liquor store, you must apply to the merchandising department of the Liquor Distribution Branch (LDB). If approved, the same contest and promotional material may be displayed in LRS's for the same time period as those for LDB stores. Pre-approval from the LCLB is not required. Contests may not be offered in licensed establishments other than licensee retail stores (with the exception of Manufacturer's Theme Nights, see point #10).

In addition to any requirements imposed by the LDB, the following conditions apply to contests held in licensee retail stores:

- All contests must be conducted, and all related point of sale material must be installed and removed, by the manufacturer.
- The items should be removed within ten days of the expiry date of the contest.

Pre-approval from the LCLB is not necessary for contests held through the media (e.g., a phone-in radio contest). However, the following rules apply to contests held through the media:

- a) There cannot be a requirement to purchase product.
- b) Entrants and winners must be of legal drinking age.
- c) Potential entrants must be informed of the above two requirements.
- d) Licensees, employees of licensees or members of their immediate families are not eligible to enter or win contests.
- e) Employees of the manufacturer sponsoring the contest, or members of the employees' immediate families, are likewise ineligible to enter or win the contest.

The availability of entry forms can be mentioned in an advertisement, and entry forms may be included in print ads.

If the advertisement concerns a contest in government liquor stores and LRS's, the ad may refer to the availability of entry coupons at these stores.

Note that point of sale material placed in a licensed establishment should not refer to contests held in government liquor stores or LRS's.

74-pack" or "On-pack" Value-added Promotional Items

"In-pack" or "on-pack" value-added promotional items, where value-added items are inserted into packaging or attached to packaging or bottles, may be used in government liquor stores, with the pre-approval of the LDB. Any in-pack or on-pack promotional items which have been approved for use in government liquor stores may also be placed in LRS's for the duration of the approved LDB promotion period.

Approval of Value-added Promotional Items

Once approval for the in-pack or on-pack promotional item has been received from the LDB, you must retain the letter of approval and provide a copy to LRS licensees. This letter of approval from the LDB, indicating that the value-added promotional items have been accepted for use in government liquor stores, must be retained on-site at the LRS by the licensee, and presented to LCLB personnel upon request.

Conditions for In-pack or On-pack Promotional Items

Value-added promotional items may not be affixed to liquor products by a licensee or the licensee's employees, as such involvement would be contrary to section 45(2) of the Act. Items may only be inserted into packaging or attached to a package or bottle by your company or your agent.

LRS's may not stock-pile liquor products bearing value-added items for the purpose of offering these products for sale beyond the time period approved by the LDB.

"Near Pack" Promotions

"Near pack" promotions (for example, a liquor manufacturer supplying bags of chips to be given away by the licensee when

a specific product is purchased) are not permitted. Such promotions require the involvement of the licensee or the licensee's employees to give away the value-added item, and this additional involvement is contrary to section 45(2) of the Act.

15 **Manufacturer Point-of-Sale Material**

Point-of-sale promotional material is limited to shelf-talkers, ceiling dangles, and product display structures. Pre-approval of point-of-sale material, either general or contest-related, by the LCLB for use in LRS's, is not required but must comply with the conditions stipulated in point #16, Manufacturer's Advertising.

Any of your point-of-sale promotional material used in a licensee retail store need not be identical to that approved by the LDB for their stores, except for those pertaining to contests.

The promotional material is your property and must be removed by your company at the conclusion of the promotion.

16 **Manufacturer's Advertising**

General Advertising Guidelines

An advertisement respecting liquor, or the availability of liquor, may be done by or on behalf of a person licensed under the *Liquor Control and Licensing Act*, or a person appointed to operate an agency store under the *Liquor Distribution Act*.

"Manufacturer's advertisement" means an advertisement placed by a brewery, winery, distillery, or agent licensed under the Act, or someone acting on their behalf.

Advertising of any type of liquor is permitted as long as the liquor products are listed with the Liquor Distribution Branch (LDB); all liquor products are treated in the same manner.

You, as a manufacturer, assume strict liability for all advertising (including merchandise) bearing corporate or brand identification that is displayed or distributed by any



person. Strict liability holds the manufacturer liable for all advertising done on its behalf. You are not responsible where you have exercised due diligence in complying with the regulations, policy and *CRTC Code*, but must demonstrate that you have exercised reasonable care and precautions for compliance.

The LCLB regulations governing manufacturer's advertising is provided in **Appendix A** in this booklet.

Pre-approval

While there is no pre-approval of advertising by the LCLB, the Liquor Distribution Branch (LDB) may require pre-approval of your advertisement before it is placed in a liquor store, including an agency store.

The CRTC Code for Broadcast Advertising of Alcoholic Beverages

Manufacturer advertising must comply with the *Code for Broadcast Advertising of Alcoholic Beverages* (after this

referred to as the "*Code*") published by the Canadian Radio-television and Telecommunications Commission (CRTC). Within British Columbia, the provisions of the *Code* apply to all forms of advertising.

For your convenience the *Code*, effective August 1, 1996, is provided in **Appendix B**.

Manufacturers may wish to refer to the *Interpretation of the Code for Broadcast Advertising of Alcoholic Beverages*, which is provided in **Appendix C** of this booklet. This interpretation provides guidelines on advertising content.

Non-Code Restrictions on Content and Location

Your advertising may be placed subject to the *Code* and the following restrictions.

Content

- a) You may not state the price of the product in the advertisement. However, you may refer to a discount or a special offer, for example, the amount of a price reduction in dollars or percentage of price, or by using the words "on special."
- b) The advertisement may not contain the name of a licensed establishment at which the product being advertised is available, or where you are holding a promotion or sponsorship, except as permitted in points 7 and 9 of this booklet.
- c) An advertisement may only include products, packaging and labelling that has been approved by the LDB.

Location

- a) An advertisement must not be placed less than 200 metres from a school or other location frequented predominately by minors.
- b) A manufacturer's advertisement must not be placed in a flyer or household circular. In addition, advertisements may not be distributed by mail to a person's residence, unless they are being sent to the home of a known customer.
- c) Your advertisement may only be placed in a sports

stadium if the stadium is used primarily for professional sports or during a sponsored event or activity.

- d) A manufacturer's advertisement may appear on the screen of a theatre as defined in the *Motion Picture Act*, but only if the motion picture being presented on the screen at that time is classified as "Restricted" or "Adult."



Public Service Advertisement

A public service advertisement means a manufacturer's advertisement carrying a public service message. A public service advertisement may not contain any product logos, direct or indirect endorsement of liquor, or depiction of branded alcohol products or packaging, but may contain the name of the

manufacturer or brand. The name of the manufacturer or brand name must be clearly subordinate in size, visibility and impact to the public service message.

Third Party Advertising

Third party advertising is the advertising of liquor products in concert with other non-liquor products or manufacturers, and may include recipes, novelty items, glasses, umbrellas, etc.

You may advertise products with non-liquor manufacturers, but the advertisements are subject to the same rules that apply to all liquor advertising material, including location restrictions. In addition, you or your representative are responsible for all material that is published or otherwise distributed.

Manufacturer advertising must comply with the Act, regulations and CRTC Code, and with any terms and conditions imposed by the General Manager of the LCLB. As mentioned previously, the monitoring process of your operations is a group effort; any manufacturer advertising that is not compliant may result in the LCLB receiving complaints from consumers, or in the LCLB taking its own initiative regarding non-compliant manufacturer advertising.

If, as the result of a complaint and subsequent investigation, your advertising is found to be non-compliant with the Act, regulations or CRTC Code, the General Manager may take action against the manufacturer under Section 20 of the Act.

Complaint Process

Upon receiving a complaint, LCLB staff will confirm that the advertisement appeared in a British Columbia-based advertising medium, and if so, will request a copy of the advertisement from you. Upon request — and at no charge — you, your agent or advertising firm must supply the LCLB with a copy of the advertisement in question.

Next, the LCLB must determine the issue at-hand: does the advertisement contravene the *Act*, the regulations, the *CRTC Code*, or terms or conditions set by the General Manager, or are there multiple infractions? The complaint process depends upon the nature of the infraction; however, infractions can generally be divided into two types: *Code* and *non-Code*. *Code* infractions are those which directly contravene the *CRTC Code*. *Non-Code* infractions are those which result from an advertisement not being in compliance with the *Act* or the regulations.

Code Infractions

If an advertisement is not compliant with the *CRTC Code*, the LCLB will take the following steps:

1. The LCLB will determine if the advertisement had been approved by Advertising Standards Canada, the

Broadcast Clearance Advisory, or other similar screening agency. If the advertisement had been approved by one of the above agencies, the complaint will be forwarded to the agency responsible for approving the advertisement. This agency will then undertake its own investigation and take appropriate action against your company.

2. If the advertisement was not approved by one of the above agencies, your company will be requested to withdraw the ad and to refrain from using it in any future British Columbia-based advertising.
3. Depending upon the nature of the infraction, the LCLB may take enforcement action against your licence.

Non-Code Infractions

If an advertisement is found to be compliant with the *Code*, but not compliant with the *Act*, regulations, or special terms and conditions set by the General Manager, the following steps are taken.

1. The LCLB will investigate further the nature of the infraction, and, if warranted, may request that you withdraw the ad.
 - If the issue is one of location - for example the advertisement is placed within 200 metres of a school - you may be requested to withdraw the ad.
 - If the issue is one of content — for example, the price is included in the advertisement — then the LCLB will request that you withdraw the advertisement and refrain from using it in any future British Columbia-based advertising.
2. The LCLB may take enforcement action against your licence depending upon the nature of the infraction and the circumstances surrounding the infraction (e.g. you have repeatedly been in non-compliance with the *Act* or regulations).

Multiple Infractions

1. If the LCLB determines that there are both *Code* and non-*Code* infractions concerning an advertisement, the LCLB will first request the manufacturer to withdraw the ad and to refrain from using it in any future British Columbia-based advertising.
2. The LCLB will then determine if the advertisement had been approved by Advertising Standards Canada, the Broadcast Clearance Advisory, or other similar screening agency. If the advertisement had been approved by one of the above agencies, the complaint will be forwarded to the agency responsible for approving the advertisement. This agency will then undertake its own investigation and take appropriate action against your company.
3. However, even if the agency determines that withdrawal of the advertisement is not warranted based upon the *Code* infraction, the LCLB may determine that the non-*Code* infraction still warrants a request to you to withdraw the advertisement.
 - If the non-*Code* infraction is one of location — for example the advertisement is placed within 200 metres of a school — you may be requested to withdraw the ad.
 - If the non-*Code* infraction is one of content — for example, the price is included in the advertisement — then the LCLB will request that you withdraw the advertisement and refrain from using it in any future British Columbia-based advertising.
4. If the advertisement was not approved by one of the above agencies, the LCLB may elect to take enforcement action against your licence depending upon the nature of the infraction and the circumstances surrounding the infraction.

Other Types of Infractions

If the complaint involves an issue not covered under the Act, regulations, terms and conditions, or the *Code*, the complaint will be referred to Advertising Standards Canada.

Objections by the Manufacturer

If you object to the withdrawal of the advertisement, an enforcement hearing will be scheduled. At the hearing you will be given the opportunity to defend the advertisement. The General Manager may again request that you withdraw the ad if there is a *Code* infraction, or if the circumstances surrounding the non-*Code* infraction warrants that the advertisement be removed. In addition, enforcement action may be taken against your licence.

Complaints about Packaging and Labelling

Complaints regarding the content of packaging and labelling are directed to the General Manager, Liquor Distribution Branch.

18 Agency Store Advertising

An "agency store advertisement" is an advertisement regarding liquor or the availability of liquor placed by, or on behalf of, a person appointed to operate an agency store under the *Liquor Distribution Act*. Agency store advertisements:

- a) may refer to the liquor products available in the agency store;
- b) may not refer directly to the availability, or imply the availability, of specific brands or liquor, or manufacturers of liquor;
- c) may not contain the prices of liquor available in the store.

An agency store operated by a winery, brewery, or distillery which sells only that manufacturer's products, may refer to the availability of that manufacturer's products in their advertising. However, advertising the price of these products is not permitted.

Unless an agency appointment is held by a manufacturer

or agent, a manufacturer or agent may not pay, in whole or in part, directly or indirectly, for an agency store advertisement.

19 Market Research

Consumer market research can include a survey of members of a target group, and may be conducted by your company or by an independent group or organization which you appoint. A survey may not:

- be a promotional scheme designed to obtain direct or indirect advertising for a product;
- be used to convey potentially disparaging information about another company or product.

Taste Tests

Pre-approval of the LCLB is not required to conduct market research. However, if the research to be conducted will involve tasting of liquor products or the distribution of packaged liquor, then the LCLB Industry Compliance Officer must be notified in writing at least ten days in advance of the following information:

- a) the name of the manufacturer for whom the research is being conducted, and the product name(s);
- b) the name of the independent group or organization conducting the research;
- c) the date, time, and place where the research will be conducted;
- d) the name of the market research organization staff member having Responsible Beverage Service certification who will be present throughout the tasting, (if the research involves a tasting).

Conditions for Conducting Market Research

Any market research conducted by your company or an independent group or organization appointed by your company, is subject to the following conditions:

- a) There may not be any public advertising of the survey.
- b) Your personnel or representatives may not be present

when or where the research is being conducted.

- c) All participating respondents must be of legal drinking age if the survey is liquor-related. Exceptions may be made if the issue being surveyed relates to responsible use messaging.
- d) A survey limited to a one-on-one question and answer situation may be conducted by telephone, in a private area or in a public area (e.g. shopping mall, on the street).
- e) Respondents may be invited to a market research office, hotel, meeting room, or other location closed to the general public and acceptable to the LCLB for a taste test.
- f) The organization conducting a taste test must ensure any licensing requirements are met.
- g) A taste test must be conducted "blind"; there is to be no identification of the samples other than by number or letter.
- h) No brand or corporate advertising may be displayed at the site of the research, unless the piece of advertising is the subject of the research.
- i) A taste test may be conducted using a product not available for sale in the province.
- j) Respondents participating in a taste test must not be permitted to consume samples to the point of intoxication. At least one person having Responsible Beverage Service licensee certification and who is employed by the independent group or organization conducting the research must be present throughout the tasting.
- k) The organization conducting the survey may compensate the respondents for participating in the survey.
- l) The results of a market research survey may not form part of a public advertising program.
- m) You are not required to provide the LCLB with pre-notification of the research, nor are you required to share the results of the research with the LCLB.

Let's Work Together

We all have obligations to fulfil and the system works best when all manufacturers, agents and representatives work with LCLB personnel to achieve compliance with both the spirit and the intent of liquor legislation. The LCLB appreciates the many aspects of business operation that you must consider, however these business considerations must always include liquor licensing laws. Familiarize yourself with the points outlined in this publication, and never hesitate to discuss potential enforcement problems with LCLB staff or your local liquor inspector. They are there to help you understand and observe the liquor laws of British Columbia.

Do's and Don'ts for Licensed Agents and Representatives

Licensed agents and representatives may:

- Maintain liaison regarding product and brand information with the managers of government liquor stores.
- Assist in the arrangements for convention, meetings and special functions.
- Conduct normal customer/supplier relations with licensees to generate and maintain business, provided no inducements are offered.
- Act as agent for the purchase of liquor through the Liquor Distribution Branch Agent Stocking Program.
- Transport or deliver liquor for persons and events provided they are not connected with any category of licensee other than a special occasion licensee.
- Act as a bartender or provide any non-liquor article or service at a banquet or other function under a special occasion licence.
- Distribute point-of-sale material including cigarette lighters, ash trays, key chains and other items. There is no specific restriction on the dollar value of any item, but it is expected they will be of nominal value. All items

may be brand or corporate identified.

- Distribute tickets to sports or other events, but discretion is to be used to avoid mass distribution. Travel costs or hotel expenses may not be provided.

Licensed agents and representatives may not:

- Delegate responsibility to any person not licensed as an agent or manufacturer by the LCLB, except for LRS tastings and the LDB TASTE program where trained temporary staff may be hired to provide samples of product.

• Lend money to pay for liquor purchased by or on behalf of a licensee.

• Act as bartender or provide any article or any service, other than those permitted in the guidelines, to a licensee.

- Offer, either directly or indirectly, to pay a commission, profit or remuneration, or make a gift to any member, officer or employee of the LCLB or the LDB.
- Offer, either directly or indirectly, any money, gift, reward or remuneration for promoting, inducing, or furthering the sale of a particular kind, class, or brand of liquor to any licensee or its employees or to anyone on their behalf.
- Conduct promotions on a university or college campus that involve the sampling or gifting of liquor to students in either on-campus licensed premises or elsewhere on campus.
- Purchase more than ten (10) tickets for an event sponsored by a licensee unless otherwise authorized by the LCLB.
- Deliver liquor to licensees unless otherwise authorized by the LDB.
- Deliver, or in any other way make available, liquor products or any brand or corporately identified items to anyone under the age of 19 years.

For More Information...

For more information, contact the Liquor Inspector in your area, or Industry Compliance Officer in Victoria.

Campbell River: Liquor Inspector
Liquor Control and Licensing Branch
B.C. Access Centre
115 - 1180 Ironwood Street
Campbell River, B.C. V9W 5P7
(250) 286-7654 FAX 286-7573

Cranbrook: Liquor Inspector
Liquor Control and Licensing Branch
B.C. Access Centre
100 Cranbrook Street North
Cranbrook, B.C. V1C 3P9
(250) 426-1562 FAX 426-1253

Fort St. John: Liquor Inspector
Liquor Control and Licensing Branch
B.C. Access Centre
10600 - 100th Street
Fort St. John, B.C. V1J 4L6
(250) 787-3345 FAX 787-3210

Kamloops: Liquor Inspector
Liquor Control and Licensing Branch
c/o Government Agent
250 - 455 Columbia Street
Kamloops, B.C. V2C 6K4
(250) 828-4720 FAX 828-4233

Kelowna: Liquor Inspector
Liquor Control and Licensing Branch
101 - 2141 Springfield Road
Kelowna, B.C. V1Y 7X1
(250) 861-7418 FAX 861-7697

Nanaimo: Liquor Inspector
Liquor Control and Licensing Branch
B.C. Access Centre
460 Selby Street
Nanaimo, B.C. V9R 2R7
(250) 741-3625 FAX 741-3622

- Nelson:** Liquor Inspector
Liquor Control and Licensing Branch
B.C. Access Centre
403 Vernon Street
Nelson, B.C. V1L 4E6
(250) 354-6460 FAX 354-6561
- Penticton:** Liquor Inspector
Liquor Control and Licensing Branch
c/o Government Agent
112 - 100 Main Street
Penticton, B.C. V2A 5A5
(250) 492-1293 FAX 492-1213
- Prince George:** Liquor Inspector
Liquor Control and Licensing Branch
B.C. Access Centre
4th Floor, 1011 Fourth Avenue
Prince George, B.C. V2L 3H9
(250) 565-6994 FAX 565-6758
- Terrace:** Liquor Inspector
Liquor Control and Licensing Branch
B.C. Access Centre
107 - 3220 Eby Street
Terrace, B.C. V8G 5K8
(250) 638-6544 FAX 638-6519
- Vancouver/Lower Mainland/Sunshine Coast:**
Liquor Inspector
Liquor Control and Licensing Branch
9180 King George Highway
Surrey, B.C. V3V 5V9
(60) 586-2641 FAX 586-2640
- Vernon:** Liquor Inspector
Liquor Control and Licensing Branch
B.C. Access Centre
#38 - 3201 - 30 Street
Vernon, B.C. V1T 9G3
(250) 549-5614 FAX 549-5508
- Victoria:** Liquor Inspector or Industry Compliance Officer
Liquor Control and Licensing Branch
2nd Floor, 1019 Wharf Street
Victoria, B.C. V8V 1X4
(250) 387-1254 FAX 387-9184
- Williams Lake:** Liquor Inspector
Liquor Control and Licensing Branch
B.C. Access Centre, 540 Borland Street
Williams Lake, B.C. V2G 1R8
(250) 398-4705 FAX 398-4208

Appendix 1: Regulations

Advertising Regulations

Who may advertise?

- 24 Liquor or the availability of liquor may only be advertised by or on behalf of the following:
- (a) a person holding a licence issued under the Act;
 - (b) a person appointed to operate an agency store under the *Liquor Distribution Act*;
 - (c) the Liquor Distribution Branch carrying out its powers and duties under the *Liquor Distribution Act*.

Manufacturer's advertisements

- 24.1 (1) In this section, "manufacturer's advertisement" means an advertisement respecting liquor or the availability of liquor placed by or on behalf of a brewery, winery, distillery or agent licensed under section 52 of the Act but does not include an advertisement intended to promote the responsible use of liquor.
- (2) Subject to subsections (3) to (11), a manufacturer's advertisement may be placed by or on behalf of a brewery, winery, distillery or agent licensed under section 52 of the Act.
- (3) Only those liquor products that are approved for sale by the Liquor Distribution Branch may be included in a manufacturer's advertisement.
- (4) A manufacturer's advertisement must not be placed less than 200 metres from a school or other location frequented predominately by minors.
- (5) Unless authorized by the general manager, a manufacturer's advertisement must not

- (a) be placed in a flyer or household circular, or
 - (b) be distributed by mail to a person's residence.
- (6) A manufacturer's advertisement must not
 - (a) state the price of any liquor product being advertised, or
 - (b) subject to subsection (11), contain the name of any licensed establishment.
- (7) A manufacturer's advertisement must not be placed in a sports stadium unless
 - (a) the stadium is used primarily for professional sports, or
 - (b) the advertisement is placed in conjunction with an event or activity that is sponsored under section 54 of the Act.
- (8) A manufacturer's advertisement may only appear on the screen of a theatre, as defined in the *Motion Picture Act* in conjunction with the presentation of motion pictures which are classified "Restricted" or "Adult" pursuant to the regulations made under that Act.
- (9) A person placing a manufacturer's advertisement must ensure that it complies with the Code for Broadcast Advertising of Alcoholic Beverages published by the Canadian Radio-television and Telecommunications Commission under the *Broadcasting Act* (Canada), as that Code is amended from time to time.
- (10) A manufacturer's advertisement may only depict packaging and labelling that has been approved under the Liquor Distribution Act.
- (11) A manufacturer's advertisement may
 - (a) if promoting an event in a licensed establishment at which the manufacturer's products are being featured, refer to the licensed establishment in which the event is to be held but only if
 - (i) the owner or other senior representative of the manufacturer will be attending the event; and

- (ii) a meal is to be served to all persons attending the event, and
 - (b) if promoting an event in a licensed establishment which is sponsored by the manufacturer and permitted by the general manager under section 24.4 (2), refer to the licensed establishment in which the event is to be held.
- (12) Nothing in this section prevents the Liquor Distribution Branch from requiring that branch's approval before a manufacturer's advertisement is placed in a liquor store, including an agency store.

Licensed establishment advertisements

- 24.2 (1) In this section, "licensed establishment advertisement" means an advertisement respecting liquor or the availability of liquor placed by or on behalf of a person, other than a liquor manufacturer, who holds a licence under section 12 of the Act with respect to an establishment.
- (2) A licensed establishment advertisement may indicate that the premises are licensed only by
- (a) including in an advertisement or sign respecting the establishment
 - (i) the class or category of licence held in respect of the establishment, and
 - (ii) the name of the licensed establishment as long as that name does not suggest a class or category of licence not held in respect of the establishment,
 - (b) including the information referred to in paragraph (a) in a list of licensed establishments published in newspapers, magazines, periodicals, or in such other ways as may be approved by the general manager, and
 - (c) posting on the outside of an entrance to the licensed establishment a menu in a form approved by the general manager.

- (3) A licensed establishment advertisement may
- (a) if promoting an event in the establishment at which a liquor manufacturer's products are being featured, refer to the manufacturer's involvement with the event, but only if
 - (i) the owner or other senior representative of the manufacturer will be attending the event, and
 - (ii) a meal is to be served to all persons attending the event; and
 - (b) if promoting an event in the establishment which is sponsored by a liquor manufacturer and permitted by the general manager under section 24.4 (2), refer to the manufacturer's involvement with the event.

Agency store advertisements

- 24.3 (1) In this section, "agency store advertisement" means an advertisement respecting liquor or the availability of liquor placed by or on behalf of a person appointed to operate an agency store under the *Liquor Distribution Act*.
- (2) An agency store advertisement may refer to the liquor products available in the agency store but must not refer, directly or by implication, to specific brands or manufacturers of liquor.
- (3) Despite subsection (2), an agency store advertisement for an agency store operated at a winery, brewery or distillery may refer to the availability of products manufactured at the winery, brewery or distillery.

Sponsorships

- 24.4 (1) No sponsorship may take place under section 54 of the Act for an event, activity or organization in which the participants or audience consist primarily of minors.
- (2) Except as permitted by the general manager, a sponsorship under section 54 of the Act must not be associated with a licensed establishment.

- (3) A liquor manufacturer or agent under section 52 of the Act must give prior notice to the general manager of any plan to sponsor an event, activity or organization under section 54 of the Act if
 - (a) the sponsorship has a value greater than \$1,500, or
 - (b) the event, activity or organization involves a licensed establishment.
- (4) If signs are used by a liquor manufacturer or agent under section 52 of the Act in the sponsorship of an event, activity or organization under section 54 of the Act that offers the sale or service of liquor, a reasonable number of signs intended to promote the responsible use of liquor must also be included.

Appendix 2: CRTC Code

CRTC Code for Broadcast Advertising of Alcoholic Beverages

Commercial messages for alcoholic beverages shall not:

- a) attempt to influence non-drinkers of any age to drink or purchase alcoholic beverages;
- b) be directed at persons under the legal drinking age, associate any such product with youth or youth symbols, or portray persons under the legal drinking age or person who could reasonably be mistaken for such persons in a context where any such product is being shown or promoted;
- c) portray the product in the context of, or in relation to, an activity attractive primarily to people under the legal drinking age;
- d) contain an endorsement of the product, personally or by implication, either directly or indirectly, by any person, character, or group who is or is likely to be a role model for minors because of a past or present position of public trust, special achievement in any field of endeavour, association with charities and/or advocacy activities benefiting children, reputation or exposure in the mass media;
- e) attempt to establish the product as a status symbol, a necessity for the enjoyment of life or an escape from life's problems, or attempt to establish that consumption of the product should take precedence over other activities;
- f) imply directly or indirectly that social acceptance, social status, personal success, or business or athletic achievement may be acquired, enhanced, or reinforced through consumption of this product;
- g) imply directly or indirectly that the presence or consumption of alcohol is, in any way, essential to the

- enjoyment of an activity or an event;
- h) portray any such product, or its consumption, in an immoderate way;
 - i) exaggerate the importance or effect of any aspect of the product or its packaging;
 - j) show or use language that suggests, in any way, product misuse or product dependency, compulsive behaviour, urgency of need or urgency of use;
 - k) use imperative language to urge people to purchase or consume the product;
 - l) introduce the product in such a way or at such a time that it may be associated with the operation of any vehicle or conveyance requiring skill;
 - m) introduce the product in such a way or at such a time as may associate the product with any activity requiring a significant degree of skill, care or mental alertness or involving an obvious element of danger;
 - n) contain inducements to prefer an alcoholic beverage because of its higher alcoholic content;
 - o) refer to the feeling and effect caused by alcohol consumption or show or convey the impression, by behaviour or comportment, that the people depicted in the message are under the influence of alcohol;
 - p) portray persons with any such product in situations in which the consumption of alcohol is prohibited; or
 - q) contain scenes in which any such product is consumed, or that give the impression, visually or in sound, that it is being or has been consumed.

Appendix 3: Interpretation of the CRTC Code

Interpretation of the Code for Broadcast Advertising of Alcoholic Beverages

1 August 1996

The following provisions do not form part of the Code. They are intended solely to serve as guidelines for the interpretation of the Code, and should not be considered as exhaustive or comprehensive.

With reference to paragraph (a):

A message should not challenge or dare people to drink or to try a particular alcoholic beverage.

In the event of a promotion, contest or premium offer, there should be at least one clearly stated option that permits participation without purchase of the product and without cost to the participants. It should also be stated that participation is limited to those who are of legal drinking age in the province where the message is to be aired. In television advertisements, in deference to members of the audience who may have impaired vision or hearing, such options and restrictions should be described both verbally and in writing. The written version of the message should be of such size, placement and duration as to be clearly visible.

With reference to paragraph (b):

The message should be overtly directed to persons who are of the legal drinking age in the province where the message is broadcast. No such message should depict, under any circumstances, children, children's toys, children's clothing, playground equipment, or wading pools. Objects that are commonly used by children, but not considered childish when used by adults (e.g. most sports equipment, Frisbees and colouring pencils) may be depicted in such messages. Mythical or fairy tale characters appealing to children, such as Santa

Claus, the Tooth Fairy, the Easter Bunny or Hallowe'en characters and symbols, should not be depicted in such messages under any circumstance.

With reference to paragraph (c):

The product should not be portrayed in the context of, or in relation to, for example, a performance, event or activity where the audience or the participants are expected to be predominantly people under the legal drinking age or where the television or film audiences of the featured performer(s) consist predominantly of people under the legal drinking age.

With reference to paragraph (d):

Once established as a role model for minors, a person will be considered to remain a role model for a period of 10 years from the date of retirement from the activity.

With reference to paragraph (g):

Commercial messages should not suggest that the presence or consumption of alcohol may create or contribute to an apparent change in mood, atmosphere or environment, or that a social gathering, celebration or any other activity is, or would be, incomplete or unsatisfactory without the product. In the depiction of alcoholic beverages as part of a celebration, advertisements should not imply or suggest that the presence or consumption of the beverage, itself, is essential to the success of the activity.

It is acceptable to say that one alcoholic beverage is superior in some way to any or all other similar alcoholic beverages, but it is not acceptable to suggest or imply that it is superior to any or all foods or non-alcoholic beverages.

With reference to paragraph (h):

Under this provision, a message should not portray (i) an unrealistic or excessive number of cases or containers or any excessive volume of the product in a context where consumption may reasonably be expected to occur; or (ii) any quantity of containers or volume of the product in a context

where the number of individual standard servings represented exceeds or may appear to exceed the number of individuals shown. This provision does not prohibit depiction of the manufacturing, warehousing, distribution or commercial storage of alcoholic beverages.

With reference to paragraph (l):

Introduction of the product will be deemed to have occurred upon the introduction of a flat label, jingle, musical signature, logo, brand name, character or other symbol commonly used to identify the product or its manufacturer. It is unacceptable to suggest or imply that the product is or should be consumed prior to or during operation of any vehicle or conveyance or the riding of an animal. It is acceptable to suggest or imply that consumption may occur after all operation depicted in the message has been clearly completed for the day. It is also acceptable to suggest or imply that consumption may occur (among passengers only) on an aircraft or vessel operated by a professional crew.

With reference to paragraph (m):

Introduction of the product will be deemed to have occurred upon the introduction of a flat label, jingle, musical signature, logo, brand name, character or other symbol commonly used to identify the product or its manufacturer. It is unacceptable to suggest or imply that the product is or should be consumed prior to or during any such activity. It is acceptable to introduce the product after all such activity depicted in the message has been clearly completed for the day.